



MULTIMEDIA UNIVERSITY

FINAL EXAMINATION

TRIMESTER 2, 2016/2017

ULT 2622 – LAW OF TORTS II

(All sections / Groups)

2nd MARCH 2017
Reading Time: 9.00 am - 9.15 am
(15 Minutes)
Answering Time: 9.15 am - 12.15 pm
(3 Hours)

INSTRUCTIONS TO STUDENTS

1. Students will have **fifteen minutes** during which they may read the paper and make rough notes ONLY in their question paper. Students then have the remaining **THREE HOURS** in which to answer the questions.
2. This Question paper consists of 2 pages with 5 Questions only. The questions are divided into **PART A** and **PART B**.
3. Attempt ONE question only from PART A and ALL questions from PART B. All questions carry equal marks and the distribution of the marks for each question is given.
4. Students are not allowed to bring in any statute and calculator into the Examination Hall.
5. Please write all your answers in the Answer Booklet provided.

PART A
Answer ONE (1) question only.

QUESTION 1

Amira is a law student at Multimedia University. She rents a room in a terrace house at Bukit Beruang. Her neighbours to the left are musicians from a band called Katz who play at a night club in Melaka Raya. During nights that they do not perform, Katz members like to 'jam' in their house until 2 am in the morning. This happens on a rate of an average of three times a week. The loud noise from the music disrupts Amira's study, and the late-night playing prevents her from having a good night's sleep.

The neighbours to the right of Amira operate a pizza delivery service called Pizz out of their front car porch. A wood-burning oven was built which produces a lot of smoke when in use. This causes discomfort to Amira whose room window is near to the chimney of the oven. Pizz thinks that its activity should be tolerated as its business provides convenience to the residents nearby.

As Pizz also provides a take-away service, sometimes the road in front of Pizz is congested with vehicles waiting for their pizza to be ready. This causes inconvenience to the neighbours when driving their cars in and out of their house compounds.

Advise Amira and the neighbouring residents on whether any legal recourse is available to them.

(Total: 25 marks)

QUESTION 2

Eriko is an avid reader and a book lover. She has a collection of more than ten thousand books in her semi-detached house in Batu Berendam. As a result of a faulty wiring work done by an independent contractor, a fire started in Eriko's house while she was away on work assignment.

The fire in Eriko's house became very intense due to the huge collection of books which are extremely flammable. The fire eventually spread to her neighbour Rommel's adjoining house. When firemen eventually put out the fire, a large portion of both houses have been destroyed.

Discuss whether Rommel can take legal action against Eriko based on both nuisance law and the rule in *Rylands v Fletcher*.

(Total: 25 marks)

Continued...

PART B
Answer all questions.

QUESTION 3

Clara was a 25-year old model. She was a divorcee and lived with her daughter Amy in Melaka. Clara's annual income before tax was RM300,000. She paid tax of 25% on the RM300,000 and used about 30% of her before-tax income for personal expenses such as cosmetics, gym and entertainment. The rest of her money went to her household expenses or her savings. One day, on her way to work, Clara was killed in a car accident due solely to the fault of the other driver.

Advise Clara's parents on what compensation her dependants may claim under the Malaysian law.

(Total: 25 marks)

QUESTION 4

Based on the case of *Hu Sepang v Keong On Eng & Ors* [1991] 1MLJ 440, elaborate on how the plaintiff can succeed in an action for breach of statutory duty against the defendant with reference to decided cases.

(Total: 25 marks)

QUESTION 5

Maxuz Sdn Bhd opened a transportation tender to the public in order to distribute their products to the agents. After one month, Theva Enterprise has been given the tender by Maxuz Sdn Bhd. The contract states that for five days a week Theva Enterprise shall provide drivers and transportsations to deliver the goods to the agents for a period of three months from the date of the agreement.

Theva Enterprise has three drivers, Chai, Taro and Mika. Each of them was subject to their own delivery duty schedule. Last month, during a delivery trip, Chai gave a lift to Rama. Chai has caused an accident and as a result, Rama suffered serious back injuries.

A week later, while Taro was on his way to deliver the goods, his girlfriend Tara called him, asking him to send her to a spa. Taro then diverted to Tara house and later sent her to the spa. When he made a 'u-turn' in front of the spa, he hit Abu.

Recently, after sending the products to the agents, Mika dropped by at Restoran Daun Pisang to have his lunch. While parking the lorry, he accidentally bumped into Miss Jelita's car. Her car is a brand new car and the cost of repair is RM10,000.

Theva Enterprise claimed that Maxuz Sdn Bhd shall be liable since the drivers have acted for their benefits. Advise the injured parties on their possible claims against the relevant party/ies.

(Total: 25 marks)

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